IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1506 OF 2005.

Rangrao Baburao Patil & another. ... Appellants.

Versus.

Akaram Snanda Patil and others. ... Respondents.

Shri Kuldeep S.Patil for the Appellantss.

CORAM : ABHAY S.OKA, J.

DATED : 26th April, 2006.

P.C.:

1. Heard the learned Advocate for the Appellants. The Appellants are the original Plaintiffs. The suit filed by the Appellants was decreed by the trial Court and the said decree has been reversed by the first Appellate Court.

2. The Advocate for the Appellants submitted that the finding of the trial Court is that the Respondents/ Defendants had no access to the strip of land which was the subject matter of the suit. He submitted that in view of this position, there was no reason to disturb the decree passed by the trial Court.

3. I have considered the submissions. The suit filed by the Appellants/Plaintiffs in respect of the open space between the houses of the Appellants and the Respondents was based on title. The trial Court decreed the suit filed by the Appellants even after recording a categorical finding that the Appellants/Plaintiffs have

not mentioned the exact area of the suit property and the measurement of the suit property was not given. The trial Court decreed the suit by observing that the Appellants have better evidence regarding their title than that of the Respondent.

4. If the Appellants have not even mentioned the exact area of open land in respect of which the relief was claimed, the Appellate Court was justified in reversing the decree of the trial Court. The suit filed by the Appellants was based not only on the possession but the suit was based on title and in the absence of any clear evidence regarding title in favour of the Appellants, the Appellate Court dismissed the suit filed by the Appellants. The findings of the Appellate Court are based on appreciation of the oral and documentary evidence on record. No interference is possible in the Second Appeal. The Second Appeal is therefore dismissed with no order as to costs.

Judge.